

## Article - State Government

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§18–214.

(a) Except for a notarial act being performed with respect to a will, as defined in § 1–101 of the Estates and Trusts Article, or a trust instrument, as defined in § 14.5–103 of the Estates and Trusts Article, a notary public located in this State may perform a notarial act using communication technology for a remotely located individual if:

(1) the notary public:

(i) has personal knowledge under § 18–206(a) of this subtitle of the identity of the remotely located individual;

(ii) has satisfactory evidence of the identity of the remotely located individual by verification on oath or affirmation from a credible witness appearing before and identified by the notary public under § 18–206(b) of this subtitle or as a remotely located individual under this section; or

(iii) has obtained satisfactory evidence of the identity of the remotely located individual by:

1. remote presentation of an identification credential described in § 18–206(b) of this subtitle;

2. credential analysis of the identification credential;  
and

3. identity proofing of the individual;

(2) the notary public is reasonably able to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) the notary public, or person acting on behalf and at the direction of the notary public, creates an audio–visual recording of the performance of the notarial act; and

(4) for a remotely located individual located outside the United States:

(i) the record:

1. is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

2. involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(ii) the notary public has no actual knowledge that the act of making the statement or signing the record is prohibited by the foreign state in which the remotely located individual is located.

(b) If a notarial act is performed under subsection (a) of this section, the certificate of notarial act required by § 18–215 of this subtitle must indicate that the notarial act involved a remotely located individual and was performed using communication technology.

(c) A short-form certificate provided in § 18–216 of this subtitle for a notarial act performed under subsection (a) of this section is sufficient if it:

(1) complies with any regulations adopted under § 18–222 of this subtitle; or

(2) contains a statement substantially as follows: “This notarial act involved a remotely located individual and the use of communication technology.”.

(d) (1) A notary public, a guardian, a conservator, or an agent of a notary public or a personal representative of a deceased notary public shall:

(i) retain the audio–visual recording created under subsection (a)(3) of this section; or

(ii) cause the audio–visual recording to be retained by a repository designated by or on behalf of the person required to retain the recording.

(2) A guardian, a conservator, or an agent of a notary public or personal representative of a deceased notary public who assumes authority over audio–visual recordings created under subsection (a)(3) of this section shall:

(i) notify the Secretary of State within 30 days after assuming authority; and

(ii) comply with all requirements in this subtitle regarding the maintenance and storage of the audio–visual recordings.

(3) Unless a different period is required by regulations adopted under § 18–222 of this subtitle, an audio–visual recording created under subsection (a)(3) of this section shall be retained for a period of at least 10 years after the recording is made.

(e) (1) Before a notary public performs the notary public’s initial notarial act under subsection (a) of this section, the notary public shall notify the Secretary of State:

(i) that the notary public will be performing notarial acts facilitated by communication technology; and

(ii) of the technologies the notary public intends to use.

(2) If the Secretary of State establishes by regulation the standards for approval of communication technology, credential analysis, or identity proofing under § 18–222 of this subtitle, the communication technology, credential analysis, and identity proofing used by a notary public must comply with the standards.

(f) The validity of a notarial act performed under this section shall be determined under the laws of this State regardless of the physical location of the remotely located individual at the time of the notarial act.

(g) This section shall be construed and applied in a manner consistent with Title 21 of the Commercial Law Article.

(h) (1) Nothing in this section shall require any person to accept, agree to, conduct, or complete a transaction where a notarial act is performed using communication technology for a remotely located individual.

(2) A person that agrees to accept, agree to, conduct, or complete a transaction where a notarial act is performed using communication technology for a remotely located individual may refuse to do so in any other transaction.

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